

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**LOCKLEAR ELECTRIC, individually and)
on behalf of all others similarly situated,)
)
)
Plaintiff,)
)
)
vs. CIVIL NO. 07-788-GPM
)
)
**MY OVERHEAD CORPORATION,)
CONCORD TECHNOLOGIES, and IBID)
POWER, INC.,)
)
)
Defendants.)****

ORDER

MURPHY, District Judge:

Defendant iBid Power, Inc., (“iBid”) removed this case from the Circuit Court of the Third Judicial Circuit, Madison County, Illinois, to this Court on November 7, 2007, asserting federal subject matter jurisdiction on the basis of 28 U.S.C. § 1332, as amended by the Class Action Fairness Act of 2005 (“CAFA”), Pub. L. No. 109-2, 119 Stat. 4 (codified in scattered sections of 28 U.S.C.). On November 26, 2007, the Court entered an order noticing sua sponte the untimeliness of the removal of this action under 28 U.S.C. § 1453(b) and 28 U.S.C. § 1446(b), and directing Plaintiff Locklear Electric (“Locklear”) to file within seven days either a motion for remand of the case to state court on the basis of the procedural defect in removal or a consent to the removal. *See In re Continental Cas. Co.*, 29 F.3d 292, 294-95 (7th Cir. 1994); *Nelson v. Overland Bond & Inv. Corp.*, No. 97 C 6617, 1997 WL 627653, at **1-2 (N.D. Ill. Oct. 1, 1997); *Bullock v. Humana Health Care Plans, Inc.*, 988 F. Supp. 1123, 1124-25 (N.D. Ill. 1997); *Runge v. Maffei*, No. 96 C 1666, 1996 WL 164383, at **1-2 (N.D. Ill. Apr. 2, 1996); *Davies v. Recreation Plantation*,

Inc., No. 94 C 4672, 1994 WL 419671, at **1-2 (N.D. Ill. Aug. 5, 1994); *Ponce v. Alitalia Linee Aeree*, 840 F. Supp. 550, 551-52 (N.D. Ill. 1993). The Court also directed iBid to file within seven days any explanation it might have for the procedural defect in the removal of this case. Both Locklear and iBid now have filed motions for remand of this case to state court on the basis of the untimeliness of the removal (Docs. 5, 6). The motions for remand are **GRANTED** and, pursuant to 28 U.S.C. § 1447(c), this action is **REMANDED** to the Circuit Court of the Third Judicial Circuit, Madison County, Illinois, on the basis of a procedural defect in removal.

IT IS SO ORDERED.

DATED: 12/3/07

s/ *G. Patrick Murphy*
G. Patrick Murphy
United States District Judge